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09-25-00

A

## **REISSUE PATENT APPLICATION TRANSMITTAL**

<i>Address to:</i>	<i>Attorney Docket No.</i>	042390.P3275R
<b>Assistant Commissioner for Patents Box Reissue Washington, DC 20231</b>	<i>First Named Inventor</i>	A. Ira Horden
	<i>Original Patent Number</i>	5,812,860
	<i>Original Patent Issue Date (Month/Day/Year)</i>	09/22/1998
	<i>Express Mail Label No.</i>	EL034436815US

**APPLICATION FOR REISSUE OF:**

*(check applicable box)*

Utility Patent     Design Patent     Plant Patent

*Design Patent*

*Plant Patent*

## **APPLICATION ELEMENTS**

#### **ACCOMPANYING APPLICATION PARTS**

- |  |  |
|--|--|
| <p>1. <input checked="" type="checkbox"/> *Fee Transmittal Form (<i>PTO/SB/56</i>)<br/><i>(Submit an original, and a duplicate for fee processing)</i></p> <p>2. <input checked="" type="checkbox"/> Specification and Claims (<i>amended, if appropriate</i>)</p> <p>3. <input checked="" type="checkbox"/> Drawing(s) (<i>35 U.S.C. 113</i>)</p> <p>4. <input checked="" type="checkbox"/> Reissue Oath / Declaration (<i>original or copy</i>)<br/><i>(37 C.F.R. § 1.175)(PTO/SB/51 or 52)</i></p> <p>5. Original U.S. Patent<br/>Offer to Surrender Original Patent (<i>37 C.F.R. § 1.178</i>)<br/><input checked="" type="checkbox"/> (<i>PTO/SB/53 or PTO/SB/54</i>)<br/>or<br/><input type="checkbox"/> Ribboned Original Patent Grant<br/><input type="checkbox"/> Affidavit / Declaration of Loss (<i>PTO/SB/55</i>)</p> <p>6. <input checked="" type="checkbox"/> Original U.S. Patent currently assigned?<br/><br/> <input checked="" type="checkbox"/> Yes      <input type="checkbox"/> No<br/> <i>(If Yes, check applicable box(es))</i> </p> <p><input checked="" type="checkbox"/> Written Consent of all Assignees (<i>PTO/SB/53 or 54</i>)</p> <p><input type="checkbox"/> 37 C.F.R. § 3.73(b) Statement      <input type="checkbox"/> Power of Attorney</p> | <p>7. <input type="checkbox"/> Foreign Priority Claim (<i>35 USC 119</i>)<br/><i>(if applicable)</i></p> <p>8. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO - 1449      <input type="checkbox"/> Copies of IDS Citations</p> <p>9. <input type="checkbox"/> English Translation of Reissue Oath/Declaration<br/><i>(if applicable)</i></p> <p>*Small Entity Statement filed in prior application<br/>10. <input type="checkbox"/> Statement(s)      <input type="checkbox"/> Status still proper and desired<br/><i>(PTO/SB/09-12)</i></p> <p>11. <input checked="" type="checkbox"/> Preliminary Amendment</p> <p>12. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503)<br/><i>(Should be specifically itemized)</i></p> <p>13. <input type="checkbox"/> Other: .....<br/>.....<br/>.....</p> |
|--|--|

**\*NOTE FOR ITEMS 1 & 10: IN ORDER TO BE ENTITLED TO PAY SMALL ENTITY FEES, A SMALL ENTITY STATEMENT IS REQUIRED (37 C.F.R. § 1.27), EXCEPT IF ONE FILED IN A PRIOR APPLICATION IS RELIED UPON (37 C.F.R. § 1.28).**

**14. CORRESPONDENCE ADDRESS**

<input type="checkbox"/> Customer Number or Bar Code Label	<input type="checkbox"/> (Insert Customer No. or Attach bar code label here)	or <input checked="" type="checkbox"/> Correspondence address below																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Name</td> <td colspan="2" style="padding: 5px;">BLAKELY, SOKOLOFF, TAYLOR &amp; ZAFMAN LLP</td> </tr> <tr> <td style="padding: 5px;">Address</td> <td colspan="2" style="padding: 5px;">12400 Wilshire Boulevard, Seventh Floor</td> </tr> <tr> <td style="padding: 5px;">City</td> <td style="padding: 5px;">Los Angeles</td> <td style="padding: 5px;">State</td> <td style="padding: 5px;">California</td> <td style="padding: 5px;">Zip Code</td> <td style="padding: 5px;">90025</td> </tr> <tr> <td style="padding: 5px;">Country</td> <td style="padding: 5px;">U.S.A.</td> <td style="padding: 5px;">Telephone</td> <td style="padding: 5px;">(503) 684-6200</td> <td style="padding: 5px;">Fax</td> <td style="padding: 5px;">(503) 684-3245</td> </tr> </table>			Name	BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP		Address	12400 Wilshire Boulevard, Seventh Floor		City	Los Angeles	State	California	Zip Code	90025	Country	U.S.A.	Telephone	(503) 684-6200	Fax	(503) 684-3245
Name	BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP																			
Address	12400 Wilshire Boulevard, Seventh Floor																			
City	Los Angeles	State	California	Zip Code	90025															
Country	U.S.A.	Telephone	(503) 684-6200	Fax	(503) 684-3245															

Name (Print/Type)	Donna Jo Coningsby, Reg. No. 41,684		
Signature	<i>Donna Jo Coningsby</i>	Date	09/22/00

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Reissue, Washington, DC 20231.

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# FEE TRANSMITTAL for FY 1999

Patent fees are subject to annual revision.  
Small Entity payments must be supported by a small entity statement,  
otherwise large entity fees must be paid. See Forms PTO/SB/09-12.  
See 37 C.F.R §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$ 1,020.00)

## Complete if Known

Application Number	90/000,000
Filing Date	September 22, 2000
First Named Inventor	A. Ira Horden
Examiner Name	R. Sheikh
Group/Art Unit	unknown
Attorney Docket Number	042390:P3275R

## METHOD OF PAYMENT (check one)

1.  The Commissioner is hereby authorized to charge indicated fees to:
2.  The Commissioner is hereby authorized to credit any over payments to:

Deposit Account Number 02-2666  
Deposit Account Name Blakely, Sokoloff, Taylor & Zafman LLP

Charge Any Additional Fees Required Under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.

2.  Payment Enclosed:

Check  Money Order  Other

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
101 690	201 345	Utility filing fee	
106 310	206 155	Design filing fee	
107 480	207 240	Plant filing fee	
108 690	208 345	Reissue filing fee	
114 150	214 75	Provisional filing fee	
<b>SUBTOTAL (1)</b>			

2. EXTRA CLAIM FEES	Extra Claims	Fee from below	Fee Paid
Total Claims	21 - 20 = 1	X 18.00 = \$18.00	
Independent Claims	7 - 3 = 4	X 78.00 = \$312.00	
Multiple Dependent			

\*\*or number previously paid, if greater. For Reissues, see below

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 78	202 39	Independent claims in excess of 3
104 260	204 130	Multiple Dependent claim, if not paid
109 78	209 39	**Reissue independent claims over original patent
110 18	210 9	**Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2)</b>		\$ 330.00

## 3. ADDITIONAL FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet.	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for response within first month	
116 380	216 190	Extension for response within second month	
117 870	217 435	Extension for response within third month	
118 1,210	218 680	Extension for response within fourth month	
128 1,850	228 925	Extension for response within fifth month	
119 300	219 150	Notice of Appeal	
120 300	220 150	Filing a brief in support of an appeal	
121 260	221 130	Request for oral hearing	
138 1,510	138 1510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,210	241 605	Petition to revive - unintentional	
142 1,210	242 605	Utility issue fee (or reissue)	
143 430	243 215	Design issue fee	
144 580	244 290	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 790	246 395	Filing a submission after final rejection (37 CFR 1.129(a))	
149 790	249 395	For each additional invention to be examined (37 CFR 1.129(b))	
Other fee (specify)		Reissue filing fee	
Other fee (specify)			690.00

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** (\$ 690.00)

SUBMITTED BY			Complete (if applicable)	
Typed or Printed Name	Donna Jo Coningsby		Reg. Number	41,684
Signature	Donna Jo Coningsby	Date	09/22/00	Deposit Account User ID 02-2666

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Express Mail Label No. EL034436815US

Attorney Docket No.: 042390.P3275R

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Reissue Application No.: Not Yet Assigned

Filed: Concurrently herewith

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Patent No.: 5,812,860

Granted:

Patentee: A. Ira Horden, et al.

Title: METHOD AND APPARATUS PROVIDING MULTIPLE VOLTAGES AND FREQUENCIES SELECTABLE BASED ON REAL TIME CRITERIA TO CONTROL POWER CONSUMPTION

**Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231**

**REQUEST FOR ABSTRACT OF TITLE**

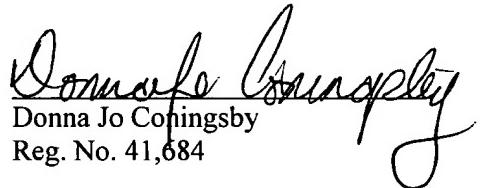
1. Please prepare a certified Abstract of Title in respect of the above identified original patent for placing in the official file of the Reissue Application which is filed herewith.

2. Title in the name of INTEL CORPORATION  
was recorded on February 12, 1996, Reel 7862, Frame 0492.

2. For the fee required by 37 CFR 1.19 (b)(4) please

- find enclosed a check in the amount of \$25.00.  
 charge any shortages or credit any overages to Account No. 02-2666.  
A duplicate of this request is attached.  
 Charge Account No. 02-2666 in the amount of \$15.00.  
A duplicate of this request is attached.

Date: 9/24/2000

  
Donna Jo Coningsby  
Reg. No. 41,684

Blakely, Sokoloff, Taylor & Zafman, LLP  
12400 Wilshire Boulevard  
7<sup>th</sup> Floor  
Los Angeles, California 90025-1026  
(503) 684-6200

**Reissue 09/668,952 (US Pat No. 5,831,860)**

1. You required a supplemental declaration. None has been submitted.
2. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178. (FP 14.05.01)
3. By cancelling all the new claims and not amending any old ones there is no longer any error. Can not have a "no error" reissue.

Reject all the claims.

In response, Applicant

- a. can abandon the case! (and retain the original patent)
- b. Can file an RCE to continue prosecution of all the claims (i.e., amend to add back in the ones he wants)
- c. If divisional has been filed, we can suspend this case until such time as there are allowable claims in the divisional. At that point, we will rejoin the claims from the 2 applications and issue a single reissue patent.

Please return this note and include the parent cases (when submitting the action for review) to expedite the review process. If you have any questions call me. Thank You.

*Pinchus*  
Pinchus M. Laufer  
SPRE, TC 2100  
PK2 2D-16 B  
306-4160  
May 28, 2002

**Please remember to wand all cases (particularly the issued parent) so they can be located.**

a recapture of the surrendered subject matter. If the narrowing limitation modifies the claim in such a manner that the scope of the claim no longer results in a recapture of the surrendered subject matter, then there is no recapture. In this situation, even though a rejection based on recapture is not made, the examiner should make of record the reason(s) why, as a result of the narrowing limitation, there is no recapture.

#### **REISSUE TO TAKE ADVANTAGE OF 35 U.S.C. 103(b):**

A patentee may file a reissue application to permit consideration of process claims which qualify for 35 U.S.C. 103(b) treatment if a patent is granted on an application entitled to the benefit of 35 U.S.C. 103(b), without an election having been made as a result of error without deceptive intent. See MPEP § 706.02(n). **This is not to be considered a recapture.** The addition of process claims, however, will generally be considered to be a *broadening* of the invention (*Ex parte Wikdahl*, 10 USPQ2d 1546 (Bd. Pat. App. & Inter. 1989)), and such addition must be applied for within two years of the grant of the original patent. See also MPEP § 1412.03 as to broadened claims.

#### **REISSUE FOR ARTICLE CLAIMS WHICH ARE FUNCTIONAL DESCRIPTIVE MATERIAL STORED ON A COMPUTER-READABLE MEDIUM:**

A patentee may file a reissue application to permit consideration of article of manufacture claims which are functional descriptive material stored on a computer-readable medium, where these article claims correspond to the process or machine claims which have been patented. The error in not presenting claims to this statutory category of invention (the “article” claims) must have been made as a result of error without deceptive intent. The addition of these “article” claims will generally be considered to be a *broadening* of the invention (*Ex parte Wikdahl*, 10 USPQ2d 1546 (Bd. Pat. App. & Inter. 1989)), and such addition must be applied for within two years of the grant of the original patent. See also MPEP § 1412.03 as to broadened claims.

#### **REJECTION BASED UPON RECAPTURE:**

Reissue claims which recapture surrendered subject matter should be rejected using form paragraph 14.17.

##### **¶ 14.17 Rejection, 35 U.S.C. 251, Recapture**

Claim[ 1 ] rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. *See Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

[ 2 ]

#### **Examiner Note**

In bracket 2, the examiner should explain the specifics of why recapture exists, including an identification of the omitted/broadened claim limitations in the reissue which provide the “broadening aspect” to the claim(s), and where in the original application the narrowed